

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE  
WASHINGTON, DC 20511

Mr. Jason Smathers  
PO Box 55819  
DEPT MR 1034  
Boston, MA 02205-5819

MAR 23 2012

Reference: DF-2012-00040

Dear Mr. Smathers:

This responds to your 20 January 2012 email to the Office of Government Ethics (OGE), wherein you requested, under the Freedom of Information Act (FOIA), **"all OGE Form 202, 'Notice of Conflict of Interest Referral Form' received in calendar year 2011."** In response to your request, the OGE located and referred two pages of material to the Office of the Director of National Intelligence (ODNI) for our review and direct response to you.

Your request was processed in accordance with the FOIA, 5 U.S.C. § 552, as amended. Upon review, it has been determined that the material may be released in segregable form with information removed pursuant to FOIA Exemptions 2 and 6; 5 U.S.C. § 552 (b)(2) and (6).

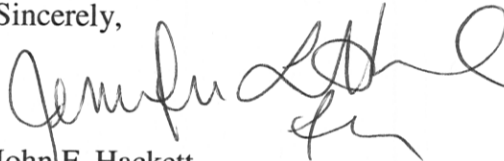
Exemption 2 protects records that relate only to the internal personnel rules and practices of an agency. Exemption 6 protects information that would constitute a clearly unwarranted invasion of privacy.

The material, as approved for release, is enclosed. Should you wish to appeal the FOIA release determination with respect to the material enclosed, please do so in writing to:

Office of the Director of National Intelligence  
Information Management Office  
Washington, DC 20511

Appeals must be received within 45 days of the date of this letter. If you have any questions, please call the Requester Service Center at (703) 874-8500.

Sincerely,



John F. Hackett  
Director, Information Management Office

Enclosure (2-pages)

## Notification of Conflict of Interest Referral

For use in cases involving possible violations of 18 U.S.C. §§ 203, 205, 207-209 by current or former executive branch employees only. See reverse for summary of statutory/regulatory background. Please return directly to: U.S. Office of Government Ethics, 1201 New York Ave. NW, Suite 500, Washington, DC 20005-3917. Phone: Associate Director for Program Reviews (202) 482-9270. FAX: (202) 482-9238.

Agency Referring the Case ODNI	Agency Case or Referral Number INV-2011-0047	Case Referred to: <input type="checkbox"/> DOJ, Public Integrity Section, Criminal Division <input checked="" type="checkbox"/> U.S. Attorney for (district) EDVA <input type="checkbox"/> DOJ, other
Date of Referral to DOJ 10/11/2011	Name of Employee involved in Case (optional), Agency, and Agency Component Where he/she was Employed. Office of the Director of National Intelligence, National Counterintelligence Executive	

### PART I ETHICS TRAINING

Is there any evidence the individual received ethics training? ☒ YES ☐ NO ☐ UNCLEAR

### PART II STATUTE(S) INVOLVED IN THIS CASE

Please check the appropriate box for the statute(s) involved in this case, then complete the rest of the information for the statute(s).

- ☐ **18 U.S.C. § 203 (Compensation for Representation Affecting the Government)**  
Federal entity before which representation occurred: \_\_\_\_\_  
Compensated representation on behalf of: \_\_\_\_\_  
Were representational services rendered or to be rendered? ☐ by the employee ☐ or by another?
- ☒ **18 U.S.C. § 205 (Representation Affecting the Government)**  
Federal entity before which representation occurred: Office of the Director of National Intelligence  
Representation on behalf of: ABA Committee on Law and National Security
- ☐ **18 U.S.C. § 207 (Post-Employment)**  
Federal entity before which representation occurred: \_\_\_\_\_  
Representation on behalf of: \_\_\_\_\_  
Was the communication/representation: ☐ oral? ☐ and/or written?  
☐ Former employee termination service before January 1, 1991. Check subsections involved:  
☐ 207(a) ☐ 207(b)(1) ☐ 207(b)(2) ☐ 207(c)  
☐ Former employee termination service on or after January 1, 1991. Check subsections involved:  
☐ 207(a)(1) ☐ 207(a)(2) ☐ 207(b) ☐ 207(c) ☐ 207(d) ☐ 207(e)  
If 207(b) or 207(f) is checked, was behind-the-scenes aid or advice involved? ☐ Yes ☐ No
- ☐ **18 U.S.C. § 208 (Acts Affecting a Personal Financial Interest)**  
Does the case involve the financial interest? ☐ of the employee? ☐ of the employee's spouse?  
☐ Minor child? ☐ A firm with which the employee was negotiating for employment?  
☐ Other? (specify): \_\_\_\_\_  
Was a waiver sought? ☐ Yes ☐ No Was it granted? ☐ Yes ☐ No  
Was the employee required to file a financial disclosure form? ☐ Yes ☐ No If yes, check form involved:  
☐ SF 278 ☐ OGE Form 450 ☐ Other (specify): \_\_\_\_\_  
If so, was the basis for the interest disclosed on the financial disclosure form? ☐ Yes ☐ No
- ☐ **18 U.S.C. § 209 (Supplementation of Salary)**  
Type of supplemental (bonus, travel, cash, etc.): \_\_\_\_\_  
Value of supplementation: \$ \_\_\_\_\_ Number of supplements: \_\_\_\_\_
- ☐ **Additional Statutes Involved in Conflict of Interest Referrals**  
Was 18 U.S.C. § 201 (bribe/gift) involved? ☐ Yes ☐ No  
Was 5 U.S.C. App. Ethics in Government Act § 501 (outside earned income) involved? ☐ Yes ☐ No  
Was 5 U.S.C. App. Ethics in Government Act § 502 (outside employment) involved? ☐ Yes ☐ No  
Was 18 U.S.C. § 1001 (false statements) involved? ☐ Yes ☐ No  
Was 5 U.S.C. App. Ethics in Government Act § 101 et seq. (Financial disclosure) involved? ☐ Yes ☐ No  
Other (list): \_\_\_\_\_

Agency Contact/Telephone Number

Date

17 October 2011

b2, b6

OGE Form 202 (11/04)

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### Statutory/Regulatory Background

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28 U.S.C. § 535 requires every department or agency to report to the Attorney General any information, allegations, or complaints relating to violations of title 18 of the United States Code involving Government employees, including possible violations of 18 U.S.C. § 207 by former Government employees. The Director of the Office of Government Ethics (OGE), in accordance with 5 U.S.C. App. § 402(e)(2), has promulgated regulations at 5 C.F.R. § 2638.603 requiring agencies to concurrently notify the Director when any matter involving a violation of 18 U.S.C. §§ 203, 205, 207, 208, and/or 209 is referred to the Department of Justice pursuant to 28 U.S.C. § 535. Such notification may be accomplished by providing a copy of the referral document or by submitting this optional form, unless such notification would otherwise be prohibited by law. OGE regulations also require that the department or agency subsequently notify the Director of the referral's disposition, including any disciplinary or corrective action taken by the department or agency. 5 C.F.R. § 2638.603(c). Information relating to the disposition of a referral may be communicated to the Director in writing.

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### PART III ADDITIONAL AGENCY COMMENTS (if any):

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### PART IV DISPOSITION OF REFERRAL (OGE use only):

☒ DOJ declined prosecution

☐ DOJ initiated prosecution

Resolution

Agency disciplinary or corrective action, if any: